

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Olga Bentin	Team: Squad #4	CCRB Case #: 201902192	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/16/2019	Location of Incident: [REDACTED]	Precinct: 18	18 Mo. SOL 8/16/2020	EO SOL 4/2/2021	
Date/Time CV Reported Tue, 03/12/2019 2:13 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Tue, 03/12/2019 2:13 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Maximilian Zapata	20049	959398	MTN PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Joseph Hoehl	00000	926963	MTN PCT
2. POM Daniel Morogiello	17227	958953	MTN PCT
3. POM James Smith	26657	933364	MTN PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Maximilian Zapata	Force: Police Officer Maximilian Zapata used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On March 12, 2019, § 87(2)(b) filed this complaint with the CCRB in person.

On February 16, 2019, § 87(2)(b) was arrested by PO Maximilian Zapata, of the 18th Precinct, at the corner of § 87(2)(b) § 87(2)(b) in Manhattan, for violating an order of protection (BR 03, BR 02, and BR 11). During the arrest, PO Zapata allegedly grabbed § 87(2)(b) by his left upper arm tightly, and dug his nails in his arm, while placing § 87(2)(b) in handcuffs (**Allegation A: Force**, § 87(2)(g)).

The investigation was provided with four BWC recordings of this incident, which can be viewed from Investigative Actions #42-45.

Findings and Recommendations

Allegation (A) Force: Police Officer Maximilian Zapata used physical force against § 87(2)(b)

It is disputed whether PO Zapata used the alleged force against § 87(2)(b).

The investigation has established the following facts. § 87(2)(b) is a food vendor, who has ongoing disputes with another food vendor, § 87(2)(b), over the positioning of their food carts at the § 87(2)(b) in Manhattan. On § 87(2)(b), § 87(2)(b) obtained an order of protection against § 87(2)(b) (BR 11). § 87(2)(b)

§ 87(2)(b) (BR 01) stated that on February 16, 2019, at approximately 12 a.m., he arrived at the § 87(2)(b) and saw § 87(2)(b) blocking the sidewalk with his food cart. § 87(2)(b) called 911 and complained about § 87(2)(b). PO Zapata and PO Daniel Morogiello arrived and spoke to § 87(2)(b). § 87(2)(b) showed the officers the order of protection. § 87(2)(b) told PO Zapata that the order was not valid. PO Zapata checked the NYPD system and told § 87(2)(b) that the order was still valid. PO Zapata then requested his supervisor to the location. Lt. Joseph Hoehl arrived and spoke to PO Zapata and PO Morogiello. Lt. Hoehl instructed PO Zapata to arrest § 87(2)(b) for violating the order of protection. § 87(2)(b) got upset and verbally protested Lt. Hoehl's decision. PO Zapata then approached § 87(2)(b), grabbed § 87(2)(b) by his left upper arm tightly, dug in his nails, and then brought his hand behind his back. PO Zapata then placed § 87(2)(b)'s right arm behind his back, and handcuffed § 87(2)(b). § 87(2)(b) denied resisting PO Zapata in any manner. § 87(2)(b) did not complain of any injury as a result of this incident.

Between 00:26:19 and 00:28:34 of PO Zapata's BWC (BR 05), PO Zapata arrives and confirms that § 87(2)(b)'s order of protection against § 87(2)(b) is valid. Between 0:29:28 and 00:34:27, PO Zapata informs § 87(2)(b) that he is detained for further investigation. At 00:34:47, PO Zapata orders § 87(2)(b) to place his hands behind his back. The camera captures § 87(2)(b)'s back. The camera does not capture § 87(2)(b)'s hands. PO Zapata appears to hold § 87(2)(b)'s left hand, bring it behind his back, and handcuff it. The camera does not capture § 87(2)(b)'s left hand, but the clicking sound of handcuffs is heard. Meanwhile, § 87(2)(b) extends his right hand in front of his body, points in the direction of his vehicle, and asks the officers to give him a minute to move the vehicle. At 00:35:10, PO Zapata says to § 87(2)(b) "Put your hands on the wall." Simultaneously, PO Zapata turns § 87(2)(b) to the right and leans him face forward against the food cart. § 87(2)(b) replies, "Slowly, slowly, boss. Take my hand over there." PO Zapata replies, "It's too late," as he presumably handcuffs § 87(2)(b)'s right hand. The video does not capture § 87(2)(b)'s hands or where PO Zapata is

holding them, but the clicking sound of handcuffs is heard. PO Zapata then walks and places § 87(2)(b) in a marked SUV. At 00:40:15, Lt. Hoehl arrives and authorizes his arrest.

PO Morogiello's BWC (BR 06) captures the same interaction between § 87(2)(b) and PO Zapata as discussed above, with the following additional information. At 00:34:49, PO Zapata takes § 87(2)(b) by his left forearm. PO Morogiello, who is standing to § 87(2)(b)'s left, slightly moves away from § 87(2)(b) changing the camera's angle. The video does not capture § 87(2)(b)'s hands or what PO Zapata is doing. PO Zapata then orders § 87(2)(b) to put his hands behind his back. At 00:34:56, § 87(2)(b) asks the officers to allow him to move his vehicle. They do not allow him to do so. At 00:35:1, PO Zapata turns § 87(2)(b) to the right and leans him face forward against the food cart. The video captures PO Zapata holding § 87(2)(b) by his left forearm, which is behind § 87(2)(b)'s back. § 87(2)(b)'s left wrist is handcuffed. It appears that § 87(2)(b)'s right hand is also behind his back. At 00:35:15, § 87(2)(b) says to PO Zapata, "Slowly, slowly boss. Take my hand over there." PO Zapata tries to handcuff § 87(2)(b)'s right hand. § 87(2)(b) then moves, partially covering the camera's view. At 00:35:31, PO Zapata escorts § 87(2)(b) to the marked SUV while holding him by his right forearm.

PO Zapata's (BR 07) testimony was generally consistent with the BWC recordings, with the following additional information. § 87(2)(b) told the officers that he had an order of protection against § 87(2)(b) which he then showed to PO Zapata. PO Zapata reviewed the order, ran a check on his department issued cell phone, and called the stationhouse to confirm the validity of the order. All the checks confirmed that the order was valid. PO Zapata then informed § 87(2)(b) that he would be arrested for violating the order of protection and asked him to place his hands behind his back. § 87(2)(b) complied and offered no resistance. PO Zapata handcuffed § 87(2)(b) without an incident. PO Zapata denied grabbing § 87(2)(b) tightly by his left upper arm or digging his nails in § 87(2)(b)'s arm.

Order of Protection § 87(2)(b) (BR 03) was issued to § 87(2)(b) on § 87(2)(b) against § 87(2)(b) until § 87(2)(b).

The EVENT #§ 87(2)(b) (BR 04) documents that § 87(2)(b) called 911 and reported that he had an order of protection against § 87(2)(b) and that § 87(2)(b) was at the location. § 87(2)(b) also called the police and stated that § 87(2)(b) got in his face.

§ 87(2)(g)
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Civilian and Officer CCRB Histories

- § 87(2)(b)
§ 87(2)(b)
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§ 87(2)(b)

- § 87(2)(b)
- PO Maximillian Zapata has been a member-of-service for three years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming false arrest, unlawful imprisonment, loss of wages, and related damages, and seeking \$1,5000,000.00 as redress (BR 09).
- According to the Officer of Court Administration (OCA), § 87(2)(b) has no history of convictions on New York City (BR 10).

Squad No.: 4

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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